

**UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT**

JOHN DOE,)
Plaintiff,)
v.) Civil Action No.: 22-CV-00096-CR
LLOYD AUSTIN, in his official capacity as)
Secretary of Defense; CHRISTINE WORMUTH,)
in her official capacity as the Secretary of the)
Army; DANIEL R. HOKANSON, in his official)
capacity as Chief of the National Guard Bureau;)
JON A. JENSEN, in his official capacity as)
Director of the Army National Guard; GARY M.)
BRITO, in his official capacity as Deputy Chief of)
Staff, G-1 of the United States Army; GREGORY)
NIGHT, in his official capacity as Adjutant General)
of the Vermont National Guard; the UNITED)
STATES NATIONAL GUARD BUREAU; the)
UNITED STATES ARMY NATIONAL GUARD;)
the UNITED STATES DEPARTMENT OF)
DEFENSE; and the VERMONT NATIONAL)
GUARD,)
Defendants.)

PLAINTIFF'S UNOPPOSED MOTION TO SEAL PERSONALLY IDENTIFYING INFORMATION IN EXHIBITS SUBMITTED IN SUPPORT OF HIS MOTION FOR PRELIMINARY INJUNCTIVE RELIEF

Pursuant to Fed R. Civ. P. 5.2 and District of Vermont Local Rule 5.2, Plaintiff John Doe respectfully requests that this Court seal the portions of certain exhibits that are being submitted in support of his Motion for Preliminary Injunctive Relief and which contain his name and personally identifying information. In support of this Motion, Plaintiff states as follows:

1. As stated in Plaintiff's Motion to Proceed Under Pseudonym [**Doc. No. 2**], which was recently granted by this Court, this litigation involves Plaintiff's HIV-positive status, which the Second Circuit has recognized is an immensely sensitive personal detail deserving of confidentiality.¹ *See Doe v. City of New York*, 15 F.3d 264, 267 (2d Cir. 1994) ("Individuals who are infected with the HIV virus clearly possess a constitutional right to privacy regarding their condition...An individual revealing that she is HIV seropositive potentially exposes herself not to understanding or compassion but to discrimination and intolerance, further necessitating the extension of the right to confidentiality over such information.").

2. Forced disclosure of Plaintiff's identity would incur stigma, discrimination, and the loss of social, professional, and educational opportunities; it would thereby incur the very deprivations Plaintiff is trying to remediate through this litigation.

3. Finally, although Plaintiff is a legal adult, he is relatively young (21 years old) and a student at a small university who would suffer significant social setbacks if forced to disclose his HIV-positive status.

4. Due to the risk of imminent, irreparable harm, Plaintiff has submitted a Motion for Preliminary Injunctive Relief. In support of his Motion for Preliminary Injunctive Relief, Plaintiff submitted exhibits, which consist of declarations from Plaintiff, Plaintiff's attorneys, and experts. Plaintiff seeks to seal those portions of these exhibits containing Plaintiff's name and other personally identifying information. Specifically, Plaintiff seeks to seal certain information by filing redacted versions of the following:

- i. **Exhibit 2** (Declaration of John Doe, plus exhibits thereto);
- ii. **Exhibit 3** (Declaration of Attorney Sophia Hall, Esq., plus exhibits thereto);

¹ Plaintiff's motion to proceed under pseudonym is still pending with the Court. Accordingly, Plaintiff files this motion out of an abundance of caution.

iii. **Exhibit 4** (to the Declaration of Doctor Anne Neilan, M.D., M.P.H., plus exhibits thereto); and

iv. **Exhibit 7** (Declaration of Trevor Hoppe, M.P.H., Ph.D., plus exhibit thereto).

Plaintiff therefore respectfully requests this court to seal the above referenced information contained in these exhibits submitted in support of Plaintiff's Motion for Preliminary Injunctive Relief and to allow Plaintiff to submit the exhibits with the personally identifying information redacted.

Pursuant to L.R. 7(a)(7), counsel for Plaintiff has conferred with Counsel for Defendants. Counsel for Defendants do not oppose the relief requested.

Dated: June 29, 2022

Respectfully submitted,

JOHN DOE,

By his attorneys,

/s/ Kierstan E. Schultz
Kierstan E. Schultz, Esq.
NIXON PEABODY LLP
900 Elm Street, 14th Floor
Manchester, NH 03101
Tel.: 603-628-4031
kschultz@nixonpeabody.com

Christopher E. Queenin, Esq. (*pro hac vice*)
NIXON PEABODY LLP
Exchange Place
53 State Street
Boston, MA 02109
Tel: 617-345-1000
cqueenin@nixonpeabody.com

Sophia L. Hall, Esq. (*pro hac vice*)
Oren Sellstrom, Esq. (*pro hac vice*)
LAWYERS FOR CIVIL RIGHTS
61 Batterymarch Street, 5th Floor
Boston, MA 02110
Tel: 617-984-0274
shall@lawyersforcivilrights.org
osellstrom@lawyersforcivilrights.org

CERTIFICATE OF SERVICE

I hereby certify that the forgoing document was served on all parties and counsel of record.

/s/ Kierstan E. Schultz
Kierstan E. Schultz